

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
VAUGHN CORNWALL,

Plaintiff,

Index No.:

-against-

VERIFIED COMPLAINT

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, P.O. KYLE BACH,
"P.O. JOHN DOE" and "P.O. JAMES DOE,"
fictitious names meant to designate other police
officers who permitted injury to plaintiff,

Defendants.
-----X

PLAINTIFF, VAUGHN CORNWALL, by his attorneys, RASKIN AND KREMINS, L.L.P.,
complaining of defendants, upon information and belief, respectfully alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. That at all times hereinafter mentioned, plaintiff, VAUGHN CORNWALL, was and is a resident of County of Westchester, City and State of New York.
2. That at all times hereinafter mentioned, defendant, THE CITY OF NEW YORK, was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
3. That at all times hereinafter mentioned, defendant, THE NEW YORK CITY POLICE DEPARTMENT, was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
4. That at all times hereinafter mentioned, defendants, P.O. KYLE BACH (Shield # 07430), "P.O. JOHN DOE" and "P.O. JAMES DOE" were employed by defendant, THE CITY OF NEW YORK.

5. That at all times hereinafter mentioned, defendants, P.O. KYLE BACH (Shield # 07430), "P.O. JOHN DOE" and "P.O. JAMES DOE" were employed by defendant, THE NEW YORK CITY POLICE DEPARTMENT.

6. That on the 17th day of February, 2010, a Notice of Claim was duly served upon the defendants.

7. That at all times hereinafter mentioned, defendant, P.O. KYLE BACH (Shield # 07430), was a member of the New York City Police Department and acting within the scope of his employment.

8. That at all times hereinafter mentioned, defendant, P.O. "JOHN DOE," was a member of the New York City Police Department and acting within the scope of his employment.

9. That at all times hereinafter mentioned, defendant, P.O. "JAMES DOE," was a member of the New York City Police Department and acting within the scope of her employment.

10. That plaintiff has complied with all conditions precedent to the commencement of this action, and in particular, within ninety (90) days of this occurrence, plaintiff has served a Notice of Claim and more than thirty (30) days have elapsed since the presentation of his claim and oral examination of plaintiff, pursuant to G.M.L. 50-h.

11. That less than one year and ninety (90) days have elapsed since the accrual of the cause of action herein set forth.

12. That on or about December 12, 2009, at approximately 12:29 p.m., defendant, P.O. KYLE BACH (Shield # 07430), came to be present at 3010 Jerome Avenue, Bronx, New York during the normal course of his employment with defendants, THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT.

13. That on or about December 12, 2009, at approximately 12:29 p.m., defendant, P.O. "JOHN DOE", came to be present at 3010 Jerome Avenue, Bronx, New York during the normal course of his employment with defendants, THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT.

14. That on or about December 12, 2009, at approximately 12:29 p.m., defendant, P.O. "JAMES DOE", came to be present at 3010 Jerome Avenue, Bronx, New York during the normal course of his employment with defendants, THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT.

15. That on or about December 12, 2009, at approximately 12:29 p.m., plaintiff was lawfully present at premises located at 3010 Jerome Avenue, Bronx, New York.

16. That on or about December 12, 2009, at approximately 12:29 p.m., plaintiff, while lawfully present at premises located at 3010 Jerome Avenue, Bronx, New York, as a result of the wrongful, willful and negligent acts of defendants herein, their agents, servants and/or employees, was caused to suffer severe, grievous and permanent personal injuries.

17. That the foregoing occurred wholly and solely as a result of the negligence of defendants herein, their agents, servants and/or employees and without any comparative fault on behalf of plaintiff herein.

18. That defendants, their agents, servants and/or employees were negligent and careless in hiring, supervising, controlling, maintaining, training, educating, interviewing and investigating their agents, servants and/or employees; in negligently and carelessly failing to direct their agents, servants, and/or employees not to use improper force; in negligently, carelessly, willfully and wrongfully causing, permitting and allowing plaintiff to be assaulted, battered, traumatized and shocked, causing injury and emotional damage; in negligently and carelessly causing, permitting and

allowing employees and/or personnel who were negligently and carelessly trained to use improper force; in negligently and carelessly using improper force; in negligently and carelessly failing to adequately train police officers and/or other personnel for the public's safety, including plaintiff herein; and in being otherwise careless and negligent.

19. That this action falls into one or more of the categories of CPLR 1600-1603.

20. That by reason of the foregoing, plaintiff became sick, sore, lame and disabled; plaintiff has been confined to bed and home intermittently; plaintiff has received permanent personal injuries and has been rendered incapacitated and will continue to be so for some time to come; plaintiff has expended significant sums of money for required hospital and medical attention and aid in an endeavor to be cured; plaintiff has been unable to carry on usual and customary duties and will be unable to carry on same; and that plaintiff was caused to suffer great pain, agony and mental anguish and verily believes that same will continue for a long time to come all to his damage in a sum which exceeds the jurisdictional limits of all lower courts.

AS AND FOR A SECOND CAUSE OF ACTION

21. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "20," inclusive, of this Complaint with the same force and effect as though more fully set forth at length herein.

22. That defendant, P.O. KYLE BACH (Shield # 07430), acting under the color of authority and without provocation, viciously and maliciously attacked plaintiff causing him to suffer serious, severe, permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

23. That defendant, P.O. "JOHN DOE," acting under the color of authority and without provocation, viciously and maliciously attacked plaintiff causing him to suffer serious, severe,

permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

24. That defendant, P.O. "JAMES DOE," acting under the color of authority and without provocation, viciously and maliciously attacked plaintiff causing him to suffer serious, severe, permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

25. That defendant, P.O. KYLE BACH (Shield # 07430), acting under the color of authority and without provocation, viciously and maliciously assaulted and battered plaintiff causing him to suffer serious, severe, permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

26. That defendant, P.O. "JOHN DOE," acting under the color of authority and without provocation, viciously and maliciously assaulted and battered plaintiff causing him to suffer serious, severe, permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

27. That defendant, P.O. "JAMES DOE," acting under the color of authority and without provocation, viciously and maliciously assaulted and battered plaintiff causing him to suffer serious, severe, permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

28. That defendant, P.O. KYLE BACH (Shield # 07430), acting under the color of authority and without provocation, viciously and maliciously beat plaintiff causing him to suffer serious, severe, permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

29. That defendant, P.O. "JOHN DOE," acting under the color of authority and without provocation, viciously and maliciously beat plaintiff causing him to suffer serious, severe, permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

30. That defendant, P.O. "JAMES DOE," acting under the color of authority and without provocation, viciously and maliciously beat plaintiff causing him to suffer serious, severe, permanent personal injuries and extreme conscious physical, mental and emotional pain and suffering and required, and will require hospitalization, medical care and treatment.

31. That the aforementioned assault and battery and resultant severe, traumatic and permanent personal injuries sustained by plaintiff were caused wholly and solely through and by reason of the gross negligence and intentional acts of defendants herein, their agents, servants and/or employees.

32. That by reason of the foregoing, plaintiff became sick, sore, lame and disabled; plaintiff has been confined to bed and home intermittently; plaintiff has received permanent personal injuries and has been rendered incapacitated and will continue to be so for some time to come; plaintiff has expended significant sums of money for required hospital and medical attention and aid in an endeavor to be cured; plaintiff has been unable to carry on same; and that plaintiff was caused to suffer great pain, agony and mental anguish and verily believes that same will continue for a long time to come, all to their damages in a sum which exceeds the jurisdictional limits of all lower courts.

AS AND FOR A THIRD CAUSE OF ACTION

33. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "32," inclusive, of this Complaint with the same force and effect as though more fully set forth at length herein.

34. That the foregoing acts of defendant, P.O. KYLE BACH (Shield # 07430), under color of law and under color of his authority as agent, servant and/or employee of THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT, violated plaintiff's civil rights, guaranteed to plaintiff as a citizen of the United States by the Fourth, Eighth and Fourteenth Amendments to the Constitution of the United States, and that defendant, P.O. KYLE BACH (Shield # 07430), is therefore liable pursuant to 42 U.S.C. § 1983.

35. That the foregoing acts of defendant, P.O. "JOHN DOE", under color of law and under color of his authority as agent, servant and/or employee of THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT, violated plaintiff's civil rights, guaranteed to plaintiff as a citizen of the United States by the Fourth, Eighth and Fourteenth Amendments to the Constitution of the United States, and that defendant, P.O. BRENDAN LOONEY (Shield # 7461), is therefore liable pursuant to 42 U.S.C. § 1983.

36. That the foregoing acts of defendant, P.O. "JAMES DOE", under color of law and under color of his authority as agent, servant and/or employee of THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT, violated plaintiff's civil rights, guaranteed to plaintiff as a citizen of the United States by the Fourth, Eighth and Fourteenth Amendments to the Constitution of the United States, and that defendant, P.O. BRENDAN LOONEY (Shield # 7461), is therefore liable pursuant to 42 U.S.C. § 1983.

37. That the foregoing act of defendant, P.O. KYLE BACH (Shield # 07430), under color of law and under color of his authority as agent, servant and/or employee of defendants, THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT, violated plaintiff's civil rights, guaranteed to plaintiff as a resident of the State of New York by the Constitution of the State of New York and the City of New York by the Human Rights Law.

38. That the foregoing act of defendant, P.O. "JOHN DOE", under color of law and under color of his authority as agent, servant and/or employee of defendants, THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT, violated plaintiff's civil rights, guaranteed to plaintiff as a resident of the State of New York by the Constitution of the State of New York and the City of New York by the Human Rights Law.

39. That the foregoing act of defendant, "JAMES DOE," under color of law and under color of his authority as agent, servant and/or employee of defendants, THE CITY OF NEW YORK and/or THE NEW YORK CITY POLICE DEPARTMENT, violated plaintiff's civil rights, guaranteed to plaintiff as a resident of the State of New York by the Constitution of the State of New York and the City of New York by the Human Rights Law.

40. That by reason of the foregoing, plaintiff became sick, sore, lame and disabled; plaintiff has been confined to bed and home intermittently; plaintiff has received permanent personal injuries and has been rendered incapacitated and will continue to be so for some time to come; plaintiff has expended significant sums of money for required hospital and medical attention and aid in an endeavor to be cured; plaintiff has been unable to carry on same; and that plaintiff was caused to suffer great pain, agony and mental anguish and verily believes that same will continue for a long time to come, all to their damages in a sum which exceeds the jurisdictional limits of all lower courts.

AS AND FOR A FOURTH CAUSE OF ACTION

41. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "40," inclusive, of this Complaint with the same force and effect as though more fully set forth at length herein.

42. That by reason of the foregoing acts and/or omissions of defendants in violation of the Fourth and Fourteenth Amendments to the United States Constitution, plaintiff has been forced to bring this lawsuit to enforce 42 U.S.C. § 1983 and as a result thereof has suffered significant economic loss in the form of attorneys fees.

43. That pursuant to 42 U.S.C. § 1983, plaintiff is entitled to reasonable attorneys fees as part of costs.

AS AND FOR A FIFTH CAUSE OF ACTION

44. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "43," inclusive, of this Complaint with the same force and effect as though more fully set forth at length herein.

45. That at all times hereinbefore mentioned, defendant, P.O. KYLE BACH (Shield # 07430), without just cause or provocation, did intentionally inflict emotional distress upon plaintiff.

46. That at all times hereinbefore mentioned, defendant, "JOHN DOE," without just cause or provocation, did intentionally inflict emotional distress upon plaintiff.

47. That at all times hereinbefore mentioned, defendant, "JAMES DOE," without just cause or provocation, did intentionally inflict emotional distress upon plaintiff.

48. That by reason of the aforesaid intentional infliction of emotional distress committed by defendants herein, plaintiff has suffered mental pain and anguish, emotional trauma and conscious pain and suffering.

49. That by reason of the foregoing, plaintiff became sick, sore, lame and disabled; plaintiff has been confined to bed and home intermittently; plaintiff has received permanent personal injuries and has been rendered incapacitated and will continue to be so for some time to come; plaintiff has expended significant sums of money for required hospital and medical attention and aid in an endeavor to be cured; plaintiff has been unable to carry on same; and that plaintiff was caused to suffer great pain, agony and mental anguish and verily believes that same will continue for a long time to come, all to their damages in a sum which exceeds the jurisdictional limits of all lower courts.

AS AND FOR A SIXTH CAUSE OF ACTION

50. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "49," inclusive, of this Complaint with the same force and effect as though more fully set forth at length herein.

51. That at all times hereinbefore mentioned, defendant, P.O. KYLE BACH (Shield # 07430), did intentionally cause an arrest, imprisonment or confinement to occur without plaintiff's consent, that plaintiff was conscious of said confinement, and that said confinement, having arisen from the negligence of defendant P.O. KYLE BACH (SHIELD # 07430), was not privileged.

52. That at all times hereinbefore mentioned, defendant, P.O. "JOHN DOE," did intentionally cause an arrest, imprisonment or confinement to occur without plaintiff's consent, that plaintiff was conscious of said confinement, and that said confinement, having arisen from the negligence of defendant, P.O. "JOHN DOE," was not privileged.

53. That at all times hereinbefore mentioned, defendant, P.O. "JAMES DOE," did intentionally cause an arrest, imprisonment or confinement to occur without plaintiff's consent, that

plaintiff was conscious of said confinement, and that said confinement, having arisen from the negligence of defendant, P.O. "JAMES DOE," was not privileged.

54. That by reason of the aforesaid false arrest, imprisonment or confinement committed by defendants herein, plaintiff has suffered mental pain and anguish, emotional trauma and conscious pain and suffering.

55. That by reason of the foregoing, plaintiff became sick, sore, lame and disabled; plaintiff has been confined to bed and home intermittently; plaintiff has received permanent personal injuries and has been rendered incapacitated and will continue to be so for some time to come; plaintiff has expended significant sums of money for required hospital and medical attention and aid in an endeavor to be cured; plaintiff has been unable to carry on same; and that plaintiff was caused to suffer great pain, agony and mental anguish and verily believes that same will continue for a long time to come, all to their damages in a sum which exceeds the jurisdictional limits of all lower courts.

WHEREFORE, plaintiff, **VAUGHN CORNWALL**, demands judgment against defendants, **THE CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, P.O. KYLE BACH, P.O. "JOHN DOE,"** and **P.O. "JAMES DOE,"** on the first, second, third, fourth, fifth and sixth causes of action each in an amount which exceeds the jurisdictional limits of all lower courts,

together with the costs, interests and disbursements of this action, and for such other and further relief as to this Court may deem just, proper and equitable.

Dated: New York, New York
May 26, 2010

Yours, etc.,

RASKIN & KREMINs, L.L.P.
Attorneys for Plaintiff

By: 

Michael P. Kremins, Esq.
160 Broadway, 4th Floor
New York, New York 10038
(212) 587-3434
File #: N-4008

VERIFICATION

STATE OF NEW YORK)
) s.s.:
COUNTY OF NEW YORK)

MICHAEL F. KREMINS, affirms under the penalties of perjury the following:

That he is a member of the firm Raskin & Kremins L.L.P., attorneys for plaintiff herein.

That he has read and knows the contents of the foregoing **Complaint**, that the same is true of his own knowledge except as to the matters therein stated to be alleged on information and belief and that as to those matters he believes them to be true.

That the reason why this verification is made by your affirmant instead of by the plaintiff is because the plaintiff is not within the County of New York, which is the County where your affirmant has his office. Your affirmant further says that the grounds of the belief as to all matters in the said Complaint are statements of said plaintiff papers and records in their possession, and a general investigation of the facts of this case.

Dated: New York, New York
May 26, 2010



Michael F. Kremins, Esq.

Index Number:
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

VAUGHN CORNWALL

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, P.O. KYLE BACH,
P.O. "JOHN DOE" and P.O. "JAMES DOE," fictitious names meant to designate other police
officers who permitted injury to plaintiff,

Defendants.

SUMMONS & VERIFIED COMPLAINT

RASKIN & KREMINS, L.L.P.
Attorneys for Plaintiff(s)
160 Broadway - 4th Floor
New York, New York 10038
(212) 587-3434

To: Attorney(s) for Defendant(s)

PLEASE TAKE NOTICE

NOTICE OF
ENTRY

☐ that the within is a (certified) true copy of an Order entered in the office of the Clerk
of the within named Court on , 2000.

NOTICE OF
SETTLEMENT

☐ that an Order of which the within is a true copy will be presented to the Hon. ,
one of the judges of the within named Court, at , on .

Dated: New York, New York

Yours, etc.,
RASKIN & KREMINS, L.L.P.
Attorneys for Plaintiff(s)
160 Broadway - 4th Floor
New York, New York 10038
(212)587-3434